

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 680

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE UNCLAIMED PROPERTY LAW; AMENDING SECTION 14-501, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 14-518, IDAHO CODE, TO PROVIDE FOR NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY TO BE ON A WEBSITE MAINTAINED BY THE STATE TREASURER; AMENDING SECTION 14-523, IDAHO CODE, TO PROVIDE FOR DISPOSITION OF MONEY RECEIVED BY THE STATE TREASURER; AMENDING SECTION 14-532, IDAHO CODE, TO PROVIDE TO THE STATE TREASURER POWERS, DUTIES AND ADMINISTRATIVE RULEMAKING AUTHORITY RELATED TO UNCLAIMED PROPERTY LAW FORMERLY GRANTED TO THE STATE TAX COMMISSION; AMENDING SECTION 14-534, IDAHO CODE, TO PROVIDE FOR THE STATE TREASURER TO DELIVER CERTAIN PROPERTY TO THE STATE HISTORICAL SOCIETY; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3077E, IDAHO CODE, TO PROVIDE FOR AGREEMENTS FOR EXCHANGE OF INFORMATION BETWEEN THE STATE TAX COMMISSION AND THE STATE TREASURER FOR ADMINISTERING THE UNCLAIMED PROPERTY ACT; AND PROVIDING AN EFFECTIVE DATE, PROVIDING FOR TRANSFER OF CERTAIN TANGIBLE PERSONAL PROPERTIES OF THE STATE TAX COMMISSION FOR ADMINISTERING THE UNCLAIMED PROPERTY LAW TO THE STATE TREASURER AND TO PROVIDE FOR THE TRANSFER AND EMPLOYMENT STATUS OF THOSE EMPLOYEES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 14-501, Idaho Code, be, and the same is hereby amended to read as follows:

14-501. DEFINITIONS AND USE OF TERMS. As used in this chapter:

(1) "Administrator" means the state ~~tax commission~~ treasurer or ~~its~~ his or her duly authorized agents or employees.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) "Attorney general" means the chief legal officer of this state.

(4) "Banking organization" means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization.

(5) "Business association" means a nonpublic corporation, limited liability company, joint stock company, investment company, business trust, partnership, or association for business purposes of two (2) or more individuals, whether or not for profit, including, but not limited to, a banking organization, financial organization, insurance company, or utility.

(6) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(7) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, investment company, or credit union.

1 (8) "Holder" means a person, wherever organized or domiciled, who is:

2 (a) In possession of property belonging to another;

3 (b) A trustee; or

4 (c) Indebted to another on an obligation.

5 (9) "Insurance company" means an association, corporation, frater-
6 nal or mutual benefit organization, whether or not for profit, which is
7 engaged in providing insurance coverage, including accident, burial, casu-
8 alty, credit life, contract performance, dental, fidelity, fire, health,
9 hospitalization, illness, life, including endowments and annuities, mal-
10 practice, marine, mortgage, surety, and wage protection insurance.

11 (10) "Intangible property" includes:

12 (a) ~~Monies~~ Moneys, checks, drafts, deposits, interest, dividends, and
13 income;

14 (b) Credit balances, customer overpayments, gift certificates, se-
15 curity deposits, refunds, credit memos, unpaid wages, unused airline
16 tickets, and unidentified remittances;

17 (c) Stocks and other intangible ownership interests in business asso-
18 ciations;

19 (d) Amounts paid for tickets, passes or vouchers to gain entrance to
20 a scheduled event where the scheduled event was ~~cancelled~~ canceled and
21 not rescheduled, and the owner of the tickets, passes or vouchers is en-
22 titled to a refund in cash, services or merchandise;

23 (e) ~~Monies~~ Moneys deposited to redeem stocks, bonds, coupons, and other
24 securities, or to make distributions;

25 (f) Amounts due and payable under the terms of insurance policies;

26 (g) Amounts distributable from a trust or custodial fund established
27 under a plan to provide health, welfare, pension, vacation, severance,
28 retirement, death, stock purchase, profit sharing, employee savings,
29 supplemental unemployment insurance, or similar benefits; and

30 (h) Any interest created by a judgment entered in any court of competent
31 jurisdiction in favor of persons who are members of a class of persons
32 defined by the court entering the judgment.

33 (11) "Last known address" means a description of the location of the ap-
34 parent owner sufficient for the purpose of the delivery of mail.

35 (12) "Owner" means a depositor in the case of a deposit, a beneficiary in
36 case of a trust other than a deposit in trust, a creditor, claimant, or payee
37 in the case of other intangible property, or a person having a legal or equi-
38 table interest in property subject to this act or his legal representative.

39 (13) "Person" means an individual, business association, state or other
40 government, governmental subdivision or agency, public corporation, public
41 authority, estate, trust, two (2) or more persons having a joint or common
42 interest, or any other legal or commercial entity.

43 (14) "State" means any state, district, commonwealth, territory, insu-
44 lar possession, or any other area subject to the legislative authority of the
45 United States.

46 (15) "Utility" means a person who owns or operates for public use any
47 plant, equipment, property, franchise, or license for the transmission of
48 communications or the production, storage, transmission, sale, delivery, or
49 furnishing of electricity, water, steam, or gas.

1 SECTION 2. That Section 14-518, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 14-518. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY. (1) The
4 administrator shall establish, maintain and update at least quarterly a cur-
5 rent list of all reported owners of abandoned property on a website that is
6 connected to or that may be accessed from the website maintained by the state
7 ~~tax commission~~ treasurer. At least one (1) week before each quarterly web-
8 site posting of such list, the administrator shall publish a notice in the
9 official newspaper of each Idaho county stating when and where the quarterly
10 website listing of Idaho abandoned property will be accessible to citizens.
11 Provided however, the names and addresses of owners located in a state which
12 will receive the accounts because of reciprocal agreements as permitted by
13 section 14-535, Idaho Code, need not be listed.

14 (2) The list maintained by the administrator must contain:

15 (a) The names, in alphabetical order, of persons listed in any report of
16 abandoned property filed with the administrator and entitled to notice;

17 (b) A statement that information concerning the property may be
18 obtained by any person possessing an interest in the property by ad-
19 dressing an inquiry to the administrator;

20 (c) A statement that the property is in the custody of the administrator
21 and all claims must be directed to the administrator; and

22 (d) A statement that the property shall escheat to the state of Idaho
23 and become the property of the state of Idaho if not claimed within ten
24 (10) years after it is received by the administrator.

25 (3) The administrator is not required to list any items of less than one
26 hundred dollars (\$100) unless the administrator considers the inclusion of
27 such property in the list to be in the public interest.

28 (4) This section is not applicable to sums payable on traveler's
29 checks, money orders, and other written instruments presumed abandoned
30 under section 14-504, Idaho Code.

31 SECTION 3. That Section 14-523, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 14-523. DISPOSITION OF MONEY RECEIVED. (1) All money received under
34 this chapter, including the proceeds from the sale of property under section
35 14-522, Idaho Code, shall be deposited in the unclaimed property account.

36 (2) An amount equal to the funds received from unclaimed shares and
37 dividends of any corporation incorporated under the laws of the state of
38 Idaho shall be transferred from the unclaimed property account to the public
39 school permanent endowment fund created pursuant to section 4, article
40 IX, of the constitution of the state of Idaho. In the event that any funds
41 are required to refund any funds deposited in the public school permanent
42 endowment fund under this section or under section 14-113 or 15-3-914, Idaho
43 Code, the state ~~tax commission~~ treasurer shall offset the amount of such
44 refund against future transfers to the public school permanent endowment
45 fund. In the event that in one (1) fiscal year there are insufficient amounts
46 to effect the offset, the balance shall be recaptured from the public school
47 earnings reserve fund established under section 33-902A, Idaho Code.

(3) All other money in the unclaimed property account is hereby continuously appropriated to the state ~~tax commission~~ treasurer, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(a) For payment of claims allowed by the state ~~tax commission~~ treasurer under the provisions of this chapter.

(b) For refund, to the person making such deposit of amounts, including overpayments, deposited in error in such account.

(c) For payment of the cost of appraisals incurred by the state ~~tax commission~~ treasurer covering property held in the name of the account.

(d) For payment of the cost incurred by the state ~~tax commission~~ treasurer for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the state ~~tax commission~~ treasurer, or which arose from complying with this chapter with respect to such property or funds.

(e) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(f) For payment of costs of official advertising in connection with the sale of property held in the name of the account.

(g) For transfer to the general fund as provided in subsection (4) of this section.

(h) For transfer to the inheritance tax account of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him under the provisions of this chapter.

(4) At the end of each month, or more often, if ~~it~~ he or she deems it advisable, the state ~~tax commission~~ treasurer shall transfer all money in the unclaimed property account in excess of two hundred fifty thousand dollars (\$250,000) to the general fund. Within sixty (60) days of making this transfer, ~~it~~ he or she shall record the name and last known address, if available, of each person appearing from the holder's report to be entitled to the property. The record shall be available for public inspection at all reasonable business hours.

(5) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, deposited in the general fund shall be retained by the state of Idaho for the purposes of this section and administered pursuant to this section for a period of ten (10) years. At the end of such period, those moneys which have not been claimed and paid over or delivered as an allowed claim under this section and section 14-524, Idaho Code, shall become due and payable by escheat to the state of Idaho and become the property of the state of Idaho without further action on the part of the administrator.

SECTION 4. That Section 14-532, Idaho Code, be, and the same is hereby amended to read as follows:

14-532. ENFORCEMENT -- ACTIONS TO ENFORCE UNCLAIMED PROPERTY LAW -- ADMINISTRATIVE RULES. (1) The collection and enforcement procedures

provided by the Idaho income tax act, sections 63-3038, 63-3039, and 63-3042 through 63-3065A, Idaho Code, but excluding subsection (6) of section 63-3045, Idaho Code, shall apply and be available to the state ~~tax commission~~ treasurer for enforcement of the provisions of this chapter and collection of any property required to be transferred shall be treated in the same manner as taxes due the state of Idaho, and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement of this chapter, be described as unclaimed property liens and proceedings.

(2) The powers and duties held by the state tax commission on June 30, 2010, pursuant to the provisions of subsection (1) of this section, shall for the purposes of this chapter and for the administration of the unclaimed property, be deemed to be powers and duties of the state treasurer on and after July 1, 2010.

(3) The administrative rules of the state tax commission in effect on June 30, 2010, for administering the provisions of this chapter shall remain in force and effect as if promulgated by the state treasurer until new rules are promulgated by the state treasurer and become effective pursuant to the provisions of section 67-5224, Idaho Code, at which time rules promulgated by the state tax commission shall be deemed repealed. The state treasurer shall have the power to promulgate administrative rules to implement the provisions of this chapter in compliance with chapter 52, title 67, Idaho Code.

SECTION 5. That Section 14-534, Idaho Code, be, and the same is hereby amended to read as follows:

14-534. STATE HISTORICAL SOCIETY USE OF PROPERTY. The director of the state historical society may examine any tangible personal property delivered to the state ~~tax commission~~ treasurer under this chapter for purposes of determining whether such property is of sufficient historical value that it should be preserved. If he so determines, the state ~~tax commission~~ treasurer may deliver such property to the state historical society for preservation and display, until such time as the owner shall make claim for return of such property.

SECTION 6. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3077E, Idaho Code, and to read as follows:

63-3077E. AGREEMENTS FOR EXCHANGE OF INFORMATION WITH THE STATE TREASURER. The state tax commission and the state treasurer may enter into a written agreement for exchange of information relating to persons, firms, corporations, partnerships or associations who are or may be conducting business operations in this state or who may be the owners of unclaimed property reported to the state treasurer. Such information shall be confidential to the recipient and may be used only for purposes of administering the provisions of the unclaimed property act in chapter 5, title 14, Idaho Code. No such information shall be public information unless it is used in the course of a judicial proceeding arising under the laws of this state. The information provided by the tax commission may include the following:

1 (1) Names of and current addresses of businesses within this state.

2 (2) The names and current addresses of individuals or entities identi-
3 fied as owners or potential owners of unclaimed property in the custody of
4 the state treasurer.

5 SECTION 7. This act shall be in full force and effect on and after July
6 1, 2010. All employees employed by the State Tax Commission on June 30, 2010,
7 in administering the State Unclaimed Property Law, and all tangible personal
8 property of the State Tax Commission for those employees used in administer-
9 ing the Unclaimed Property Law shall be transferred to the State Treasurer on
10 July 1, 2010. Any employee who is a classified employee pursuant to chapter
11 53, title 67, Idaho Code, of the State Tax Commission and who is transferred
12 to the State Treasurer may remain a classified employee if he or she chooses
13 until such employee terminates, resigns or leaves the current position he or
14 she holds. At that time, the position shall become a nonclassified position
15 pursuant to chapter 16, title 59, Idaho Code.